

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 28, subsection 11, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments increase reimbursement rates for home- and community-based services (HCBS) to reflect the appropriation of \$1.5 million for state fiscal year 2012 for this purpose. These amendments essentially restore the reductions in the waiver reimbursement limits that were implemented in December 2009 as a result of Executive Order 19. At that time, rate maximums were reduced by 2.5 percent for most waiver services. Maximums for home health aide, nursing, and interim medical monitoring and treatment performed by a home health agency were reduced by 5 percent.

The Council on Human Services adopted these amendments on August 10, 2011.

The Department finds that notice and public participation are impracticable because the legislation makes the change effective July 1, 2011. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(3).

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of these amendments should be waived, as authorized by 2011 Iowa Acts, House File 649, section 28, subsection 11.

These amendments are also published herein under Notice of Intended Action as **ARC 9707B** to allow for public comment.

These amendments do not provide for waivers in specified situations because the changes are a benefit to the providers affected. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 28, subsection 1(q).

These amendments became effective on August 17, 2011.

The following amendments are adopted.

ITEM 1. Amend subparagraph **79.1(1)“e”(3)** as follows:

(3) The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment based on the provider’s actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than 2.5 percent.

ITEM 2. Amend subrule **79.1(2)**, provider category “HCBS waiver service providers,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
HCBS waiver service providers, including:		Except as noted, limits apply to all waivers that cover the named provider.
1. Adult day care	Fee schedule	For AIDS/HIV, brain injury, elderly, and ill and handicapped waivers <u>effective 7/1/11:</u> <u>Provider’s rate in effect 11/30/09. If no 11/30/09 rate:</u> Veterans Administration contract rate or \$21.57 <u>\$22.12</u> per half-day, \$42.93 <u>\$44.03</u> per full day, or \$64.38 <u>\$66.03</u> per extended day if no Veterans Administration contract.

			For intellectual disability waiver: County contract rate or, effective 7/1/11 in the absence of a contract rate, <u>provider's rate in effect 11/30/09</u> . If no 11/30/09 rate, \$28.73 <u>\$29.47</u> per half-day, \$57.36 <u>\$58.83</u> per full day, or \$73.13 <u>\$75.00</u> per extended day.
2. Emergency response system:			
Personal response system	Fee schedule		<u>Effective 7/1/11, provider's rate in effect 11/30/09</u> . If no 11/30/09 rate: Initial one-time fee: \$48.29 <u>\$49.53</u> . Ongoing monthly fee: \$37.56 <u>\$38.52</u> .
Portable locator system	Fee schedule		<u>Effective 7/1/11, provider's rate in effect 11/30/09</u> . If no 11/30/09 rate: One equipment purchase: \$300 <u>\$307.69</u> . Initial one-time fee: \$48.29 <u>\$49.53</u> . Ongoing monthly fee: \$37.56 <u>\$38.52</u> .
3. Home health aides	Retrospective cost-related		For AIDS/HIV, elderly, and ill and handicapped waivers effective 7/1/11: Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5% .
			For intellectual disability waiver effective 7/1/11: Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5% , converted to an hourly rate.
4. Homemakers	Fee schedule		<u>Effective 7/1/11, provider's rate in effect 11/30/09</u> . Maximum of \$19.31 If no 11/30/09 rate: <u>\$19.81</u> per hour.
5. Nursing care	For elderly and intellectual disability waivers: Fee schedule as determined by Medicare.		For elderly waiver effective 7/1/11, <u>provider's rate in effect 11/30/09</u> . If no 11/30/09 rate: \$80.85 <u>\$82.92</u> per visit. For intellectual disability waiver effective 7/1/11: Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5% , converted to an hourly rate.
	For AIDS/HIV and ill and handicapped waivers: Agency's financial and statistical cost report and Medicare percentage rate per visit.		For AIDS/HIV and ill and handicapped waivers effective 7/1/11, <u>provider's rate in effect 11/30/09</u> ÷ Cannot exceed \$80.85 . If no 11/30/09 rate: <u>\$82.92</u> per visit.
6. Respite care when provided by:			

Home health agency:		
Specialized respite	Cost-based rate for nursing services provided by a home health agency	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 2.5%, converted to an hourly rate, not to exceed \$296.94 per day.
Basic individual respite	Cost-based rate for home health aide services provided by a home health agency	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 2.5%, converted to an hourly rate, not to exceed \$296.94 per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 \$13.12 per hour not to exceed \$296.94 per day.
Home care agency:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$32.94 \$33.75 per hour not to exceed \$296.94 per day.
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$47.56 \$48.01 per hour not to exceed \$296.94 per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$42.79 \$43.12 per hour not to exceed \$296.94 per day.
Nonfacility care:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$32.94 \$33.75 per hour not to exceed \$296.94 per day.
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$47.56 \$48.01 per hour not to exceed \$296.94 per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$42.79 \$43.12 per hour not to exceed \$296.94 per day.
Facility care:		

Hospital or nursing facility providing skilled care	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour not to exceed the facility's daily per diem Medicaid rate for skilled nursing facility level of care.
Nursing facility	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour not to exceed the facility's daily per diem for nursing facility level of care Medicaid rate.
Camps	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour not to exceed \$296.94 per day.
Adult day care	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour not to exceed rate for regular adult day care services.
Intermediate care facility for the mentally retarded	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour not to exceed the facility's daily per diem for ICF/MR level of care Medicaid rate.
Residential care facilities for persons with mental retardation	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour not to exceed contractual daily per diem rate.
Foster group care	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour not to exceed daily per diem rate for child welfare services.
Child care facilities	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour not to exceed contractual daily per diem rate.
7. Chore service	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$7.52 <u>\$7.71</u> per half hour.
8. Home-delivered meals	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$7.52 <u>\$7.71</u> per meal. Maximum of 14 meals per week.

9. Home and vehicle modification	Fee schedule	For elderly waiver: \$1,010 lifetime maximum. For intellectual disability waiver: \$5,050 lifetime maximum. For brain injury, ill and handicapped and physical disability waivers: \$6,060 per year.
10. Mental health outreach providers	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: On-site Medicaid reimbursement rate for center or provider. Maximum of 1440 units per year.
11. Transportation	Fee schedule	Effective 7/1/11: County contract rate or, in the absence of a contract rate, provider's rate in effect 11/30/09. If no 11/30/09 rate, the rate set by the area agency on aging.
12. Nutritional counseling	Fee schedule	Effective 7/1/11 for non-county contract: Provider's rate in effect 11/30/09. If no 11/30/09 rate: \$8.04 <u>\$8.25</u> per unit.
13. Assistive devices	Fee schedule	Effective 7/1/11: \$107.30 <u>\$110.05</u> per unit.
14. Senior companion	Fee schedule	Effective 7/1/11 for non-county contract: Provider's rate in effect 11/30/09. If no 11/30/09 rate: \$6.44 <u>\$6.59</u> per hour.
15. Consumer-directed attendant care provided by:		
Agency (other than an elderly waiver assisted living program)	Fee agreed upon by member and provider	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$19.70 <u>\$20.20</u> per hour not to exceed the daily rate of \$113.80 <u>\$116.72</u> per day.
Assisted living program (for elderly waiver only)	Fee agreed upon by member and provider	For elderly waiver only: \$1,089.08 Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: <u>\$1,117</u> per calendar month. Rate must be When prorated per day for a partial month, at a rate not to exceed \$35.79 <u>\$36.71</u> per day.
Individual	Fee agreed upon by member and provider	Effective July 1, 2010, \$13.47 per hour not to exceed the daily rate of \$78.56 per day.
16. Counseling		
Individual:	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$10.52 <u>\$10.79</u> per unit.

Group:	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$42.06 <u>\$43.14</u> per hour.
17. Case management	Fee schedule with cost settlement. See 79.1(1) "d."	For brain injury waiver: Retrospective cost-settled rate. For elderly waiver: Quarterly revision of reimbursement rate as necessary to maintain projected expenditures within the amounts budgeted under the appropriations made for the medical assistance program for the fiscal year.
18. Supported community living	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11: \$34.14 <u>\$34.98</u> per hour, \$76.94 <u>\$78.88</u> per day not to exceed the maximum daily ICF/MR per diem less 2.5% <u>rate</u> .
19. Supported employment:		
Activities to obtain a job:		
Job development	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$886.28 <u>\$909</u> per unit (job placement). Maximum of two units per 12 months.
Employer development	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$886.28 <u>\$909</u> per unit (job placement). Maximum of two units per 12 months.
Enhanced job search	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11: Maximum of \$34.14 <u>\$34.98</u> per hour, and Maximum of 26 hours <u>per 12 months</u> .
Supports to maintain employment	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11: Maximum of \$34.14 <u>\$34.98</u> per hour for all activities other than personal care and services in an enclave setting. Maximum of \$19.34 <u>\$19.81</u> per hour for personal care. Maximum of \$6.04 <u>\$6.19</u> per hour for services in an enclave setting. Total not to exceed \$2,811.62 <u>\$2,883.71</u> per month for total service. Maximum of 40 units per week.
20. Specialized medical equipment	Fee schedule	\$6,060 per year.
21. Behavioral programming	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$10.52 <u>\$10.79</u> per 15 minutes.
22. Family counseling and training	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$42.06 <u>\$43.14</u> per hour.

23. Prevocational services	Fee schedule	For the brain injury waiver effective 7/1/11: \$47.01 <u>\$48.22</u> per day, \$23.51 <u>\$24.11</u> per half-day, or \$12.88 <u>\$13.21</u> per hour. For the intellectual disability waiver effective 7/1/11: County contract rate or, in absence of a contract rate, \$47.01 <u>\$48.22</u> per day, \$23.51 <u>\$24.11</u> per half-day, or \$12.88 <u>\$13.21</u> per hour.
24. Interim medical monitoring and treatment:		
Home health agency (provided by home health aide)	Cost-based rate for home health aide services provided by a home health agency	Effective 7/1/11: Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5%, converted to an hourly rate.
Home health agency (provided by nurse)	Cost-based rate for nursing services provided by a home health agency	Effective 7/1/11: Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5%, converted to an hourly rate.
Child development home or center	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.79 <u>\$13.12</u> per hour.
Supported community living provider	Retrospectively limited prospective rate	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$34.11 <u>\$34.98</u> per hour, not to exceed the maximum ICF/MR rate per day.
25. Residential-based supported community living	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11: The maximum daily per diem for ICF/MR less 2.5% rate per day.
26. Day habilitation	Fee schedule	Effective 7/1/11: County contract rate or, in the absence of a contract rate, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$12.88 <u>\$13.21</u> per hour, \$31.35 <u>\$32.15</u> per half-day, or \$62.68 <u>\$64.29</u> per day.
27. Environmental modifications and adaptive devices	Fee schedule	\$6,060 per year.
28. Family and community support services	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$34.11 <u>\$34.98</u> per hour.

29. In-home family therapy	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$94.29 <u>\$93.63</u> per hour.
30. Financial management services	Fee schedule	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$64.04 <u>\$65.65</u> per enrolled member per month.
31. Independent support broker	Rate negotiated by member	Effective 7/1/11, provider's rate in effect 11/30/09. If no 11/30/09 rate: \$14.77 <u>\$15.15</u> per hour.
32. Self-directed personal care	Rate negotiated by member	Determined by member's individual budget.
33. Self-directed community supports and employment	Rate negotiated by member	Determined by member's individual budget.
34. Individual-directed goods and services	Rate negotiated by member	Determined by member's individual budget.

ITEM 3. Amend subparagraphs **79.1(15)“f”(2)** and **(3)** as follows:

(2) ~~For services rendered July 1, 2010, through June 30, 2011, revenues~~ Revenues exceeding ~~100 percent of~~ adjusted actual costs by more than 2.5 percent shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.

(3) Providers who do not reimburse revenues exceeding ~~100~~ 102.5 percent of actual costs 30 days after notice is given by the department will have the revenues over ~~100~~ 102.5 percent of the actual costs deducted from future payments.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/7/11.